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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

FREDRICH HERIBERT BELIUNAS,

Defendant.

No. 06-00360 JW

STIPULATION AND [PROPOSED]
ORDER CONTINUING CHANGE OF
PLEA HEARING AND EXCLUDING
TIME

SAN JOSE VENUE

The undersigned parties respectfully request that the change of plea hearing in the above-captioned case currently scheduled for September 18, 2006 be continued to December 4, 2006.

This case was transferred from the Western District of Missouri, and Anthony Capozzi, who represents the defendant, needs additional time to negotiate a plea agreement with the United States Attorney's Office in the Western District of Missouri. In addition, the plea agreement must be approved by the United States Attorney's Office in this jurisdiction. Moreover, Mr. Capozzi will unavailable for approximately six to eight weeks because of a trial commencing in October. Therefore, the parties request that the hearing date be continued to December in order to afford all the involved parties to finalize an agreement. The parties also request an exclusion

1 of time under the Speedy Trial Act from September 18, 2006 to December 4, 2006. The parties
2 agree and stipulate that an exclusion of time is appropriate based on the defendant's need for
3 continuity of counsel and for effective preparation of counsel.

4 SO STIPULATED:

KEVIN V. RYAN
United States Attorney

5
6 DATED: _____

/s/
SUSAN KNIGHT
Assistant United States Attorney

7
8 DATED: _____

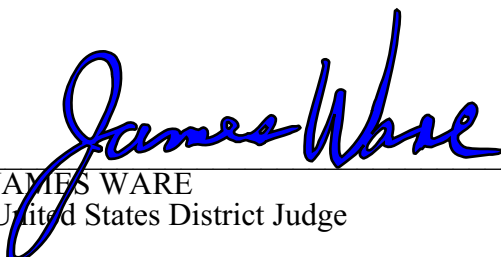
/s/
ANTHONY P. CAPOZZI
Counsel for Mr. Beliunas

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11 Accordingly, for good cause shown, the Court HEREBY ORDERS that the change of plea
12 hearing be continued from September 18, 2006 to December 4, 2006.

13 The Court FURTHER ORDERS that time be excluded under the Speedy Trial Act from
14 September 18, 2006 to December 4, 2006. The Court finds, based on the aforementioned
15 reasons, that the ends of justice served by granting the requested continuance outweigh the best
16 interest of the public and the defendant in a speedy trial. The failure to grant the requested
17 continuance would deny defense counsel reasonable time necessary for effective preparation,
18 taking into account the exercise of due diligence, and would result in a miscarriage of justice.
19 The Court therefore concludes that this exclusion of time should be made under 18 U.S.C. §§
20 3161(h)(8)(A) and (B)(iv).

21 SO ORDERED.

22
23 DATED: 09/14/06


JAMES WARE
United States District Judge